

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

EXPLORICA, INC.

Plaintiffs,

v.

ELDERHOSTEL, INC.  
d/b/a EXPLORITAS,

Defendants.

Civil Action No. 09-11719-RGS

**JOINT MOTION TO DEFER CERTAIN ISSUES UNTIL  
A POST-TRIAL JURY-WAIVED PROCEEDING BEFORE THE COURT**

Pursuant to a suggestion made by the Court during the February 8, 2010 pretrial conference, Plaintiff Explorica, Inc. and Defendant Elderhostel, Inc. (“The Parties”) hereby stipulate and agree to the following, and respectfully request that the Court so order:

1. The Parties each waive their right to a jury trial on damages for all counts asserted in the pleadings.
2. The Parties agree that, unless mooted by the outcome of the forthcoming jury trial, any issues relating to damages shall be heard and determined by the Court in proceedings to take place concurrently with any post-trial proceedings before the Court on, inter alia, injunctive relief or a determination of an exceptional case.
3. The Parties agree that reasonable discovery relating to the above issues shall be allowed prior to said post-trial proceedings.

February 11, 2010

ELDERHOSTEL, INC.

By its attorneys,

/s/ Michael A. Albert

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Respectfully Submitted,

EXPLORICA, INC.

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**CERTIFICATE OF SERVICE**

I certify that this document is being filed through the Court's electronic filing system, which serves counsel for other parties who are registered participants as identified on the Notice of Electronic Filing (NEF). Any counsel for other parties who are not registered participants are being served by first class mail on the date of electronic filing.

/s/ Michael A. Albert